

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF MICHIGAN**

BECKY PINGSTON-POLING, individually,  
and on behalf of all others similarly situated,

Plaintiff,

v.

ADVIA CREDIT UNION,

Defendants.

**Civil No.: 1:15-cv-1208**  
**Honorable Gordon J. Quist**

**CLASS ACTION – FIRST AMENDED  
COMPLAINT**

DEMAND FOR JURY TRIAL

**FIRST AMENDED COMPLAINT**

Plaintiff Becky Pingston-Poling (“Plaintiff”), by her attorneys, hereby brings this class and representative action against Advia Credit Union (“Advia” or “Defendant”). All allegations herein are based upon information and belief except those allegations which pertain to Plaintiff or her counsel, which are based on personal knowledge. Plaintiff’s information and belief are based upon, *inter alia*, Plaintiff’s own investigation and the investigation conducted by Plaintiff’s attorneys. Each allegation either has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

**NATURE OF THE ACTION**

1. This is a class and representative action brought by Plaintiff to assert claims in her own right, in her capacity as the class representative of all others similarly situated. This class action seeks monetary damages, restitution, punitive damages, and injunctive relief against Defendant Advia arising from Advia’s breach of its contracts with consumers in its implementation of an overdraft fee program.

Specifically, Plaintiff asserts that Advia charged overdraft fees for transactions for which there was money in the checking account to cover the transactions, thereby breaching the express terms of its consumer contract. Plaintiff also alleges that because it provided inaccurate and untruthful overdraft information to its customers, under the Electronic Funds Transfer Act, 12 C.F.R. § 1005, Advia was not authorized to assess overdraft fees to consumers for debit card and non-recurring debit card charges. However, Advia did charge its customers overdraft fees for ATM and debit card charges.

### **PARTIES**

2. Plaintiff is a resident of Kalamazoo, Michigan, and was as a member of Advia at all times relevant to the class action allegations.

3. Based on information and belief, Defendant Advia is a state chartered credit union with its headquarters located in Parchment, Michigan.

4. Whenever in the First Amended Complaint (“FAC”) reference is made to any act, deed, or conduct of a defendant corporation, the allegation means the defendant corporation engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents, employees, or representatives who was actively engaged in the management, direction, control, or transaction of the defendant corporation’s ordinary business and affairs.

5. As to the conduct alleged herein each act was authorized ratified or directed by Defendant’s officers, directors, or managing agents.

### **VENUE AND JURISDICTION**

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Jurisdiction is also proper pursuant to the Class Action Fairness Act 28 U.S.C. § 1332(d) because: 1) the claims of plaintiffs aggregated together exceed \$5,000,000, and 2) some putative class members are residents of

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different states than the Defendant. Venue is proper pursuant to 28 U.S.C. § 1331(b)(1) because Defendant is a resident of and does substantial business in this district.

## **FACTUAL ALLEGATIONS**

### **A. Advia's Unlawful Overdraft Program**

7. Advia is a Michigan based credit union with approximately \$1 billion in assets that provides banking services to over 100,000 members through 24 branches in Michigan, Wisconsin, and Illinois. One of the services offered by Advia to consumer banking customers is a checking account. One of the benefits Advia offers with a checking account is a debit card that can be used for a variety of transactions including buying goods and services, as well as the ability to write checks, withdraw from ATM machines, schedule ACH (Automated Clearing House transactions) such as certain recurring payments, and other type of transaction items that debit from the checking account. In connection with processing debit items (including debit card, ATM, check, ACH and other types of transactions), Advia assesses overdraft fees to its customers when it determines that the customer account is overdrawn.

8. Credit Unions, like banks, have increasingly turned to overdraft fees as a highly lucrative profit center. An FDIC report estimated that overdraft fees represent 74% of the total services charges that are imposed on deposit accounts in the United States. According to the June 11, 2013 report entitled CFPB Study of Overdraft Programs<sup>1</sup>, credit unions generated \$7.4 billion in overdraft fees in 2012 (p. 14).

9. The high cost of an overdraft fee is usually unfairly punitive. In a 2012 study, more than 90% of customers who were assessed overdraft fees overdraw their account by mistake. (May 2012 Pew Charitable Trust report entitled "Overdraft America: Confusion and Concerns about Bank

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<sup>1</sup> [http://files.consumerfinance.gov/f/201306\\_cfpb\\_overdraft-practices.pdf](http://files.consumerfinance.gov/f/201306_cfpb_overdraft-practices.pdf)

Practices”, at p. 4.) More than 60% of the transactions that resulted in a large overdraft fee were for less than \$50. (June 2014 Pew Charitable Trust report entitled “Overdrawn”, at p.8). More than 50% of those who were assessed overdraft fees do not recall opting into an overdraft program (*id.*, at p. 5), and more than two-thirds of customers would have preferred the financial institution decline their transaction rather than paying the transaction into overdraft and charging a very large fee (*id.*, at p. 10).

10. Unfortunately, the customers who are assessed these fees are the most vulnerable customers. Younger, lower-income, and nonwhite account holders are among those who were more likely to be assessed overdraft fees. (*Id.*, at p. 1.) A 25 year old is 133% more likely to pay an overdraft penalty fee than a 65 year old. (*Id.*, at p. 3.) More than 50% of the customers assessed overdraft fees earned under \$40,000 per year. (*Id.*, at p. 4.) Nonwhites are 83% more likely to pay an overdraft fee than whites. (*Id.*, at p. 3.)

11. In reaction to banks and credit unions taking advantage of millions of customers through the unfair practice of charging overdraft fees through methodologies that maximize the possible number of expensive overdraft fees to be charged, a substantial amount of litigation on these issues have occurred over the past few years. The results of this litigation include a trial verdict in California and nationwide settlements wherein banks and credit unions have been ordered or have agreed to pay unfairly assessed overdraft fees back to their customers in an amount in the hundreds of millions of dollars.

12. Furthermore, the federal government has also stepped in to provide additional protections to customers with respect to abusive overdraft policies. In 2010, the Federal Reserve Board enacted Regulation E, which permits financial institutions to charge overdraft fees on ATM and one-time debit card charges only if the institution first obtained the affirmative consent of the customer. 12 C.F.R. § 1005.17 (“Opt In Rule”).

13. To qualify as affirmative consent, the opt-in notice/agreement must include, but is not limited to the following:

- The customer must be provided the overdraft policy, including the dollar amount of any fees that will be charged for an overdraft;
- The opt-in consent must be obtained separately from other consents and acknowledgements;
- The consent cannot serve any purpose other than opting into the overdraft program;
- The consent cannot be a pre-selected checked box;
- The financial institution may not provide different terms for the account depending on whether the customer opted in to the overdraft program.

If the financial institution did not obtain proper affirmative consent from the consumer that meets all of the requirements of the Opt-in Rule, then it is not allowed to charge overdraft fees on ATM and one-time debit card transactions.

14. At all relevant times, Advia has had an overdraft program (sometimes referred to as “Courtesy Pay”) in place for assessing overdraft fees on certain transactions which is contrary to the express terms of its contracts with members; is contrary to how Advia represents its overdraft program to its members; and is contrary to what consumers would expect as to when they would be assessed overdraft fees. Advia contracts with its members that it is entitled to assess an overdraft fee when Advia pays an item (an item is a check, debit card withdrawal, ATM or ACH) when it is presented without sufficient funds to pay the item. (“Payment Order of Items” section of its Member Account Agreement & Truth in Savings Disclosure (“Account Agreement”), p. 2 attached hereto as Exhibit 1.) In the “Overdraft Courtesy Pay Plan” section of the Account Agreement, Advia contracts that an overdraft occurs when “any item [is] presented for payment if your account does not have sufficient funds.” (*Id.*

at p.3.). In addition, the separate agreement entitled “What You Need to Know About Overdrafts and Overdraft Fees” (“Opt-in Agreement”, attached hereto as Exhibit 2), which must fully comply with the requirements of Reg. E in order to garner customers’ affirmative consent to be charged overdraft fees, similarly states that an overdraft occurs only “when you do not have enough money in your account to cover a transaction, but [Advia has] the option to pay it anyway”.

15. Advia’s contractual promises to only assess overdraft fees when there is not enough money in the account to pay the item (insufficient funds), was also provided to customers in other disclosures and marketing materials it provided to customers.

15. However, contrary to the contracts and other marketing materials that Advia will only charge overdraft fees when there is not enough money in the checking account to pay the transaction, Advia’s practice when assessing an overdraft fee on a transaction is to ignore whether there is money in the account or a negative balance, and instead make the automated decision on assessing overdraft fees based on an artificial internal calculation (available balance) rather than the actual balance. The available balance is the actual balance minus anticipated debits in the future (that may or may not occur) and deposits that have not yet cleared pursuant to its funds availability policy. The use of an internal available balance rather than the actual balance to determine whether a transaction is overdrawn and subject to an overdraft fee is directly contrary to the language in the contracts. The result is that Advia improperly charges members overdraft fees in situations when there is money in the account to pay the item(s).

16. This practice is in breach of Advia’s contracts with its members. Further, the practice of charging overdraft fees even when there are sufficient money/funds in the account is inconsistent with how Advia describes the circumstances of when it assesses overdraft fees in other customer materials. Further, Advia has failed to inform customers of the conditions under which overdraft fees will be

assessed in both the Account Agreement and other consumer materials.

17. Plaintiff and the Class members have performed all conditions, covenants, and promises required by each of them on their part to be performed in accordance with the terms and conditions of the contracts.

18. Therefore, Plaintiff, on behalf of herself and all others similarly situated, seeks relief as set forth below.

**B. Unlawful Overdraft Fees Assessed to Plaintiff Becky Pingston-Poling**

19. Plaintiff was harmed by the practice of charging overdraft fees when there was money in the account to cover the transaction. Plaintiff entered into a contract with Advia, where Advia contracted to charge overdraft fees only if there was not money to cover the transaction. Advia breached these agreements, and in breaching the Opt-In Agreement, violated Regulation E. It will be necessary to obtain Defendant's records to determine each occasion when Advia engaged in this practice, and the resulting damage to Plaintiff from the practice. However, to give just one example, on June 27, 2015, Plaintiff had a balance of \$30.48, before a \$7.00 debit card transaction was posted to her account, leaving her with a balance of \$23.48. Despite the fact that Plaintiff had sufficient funds and money to cover the transaction, she was charged an overdraft fee of \$32 on the \$7.00 transaction. It is believed that a complete review of Plaintiff's and Advia's records will show multiple instances of Advia improperly charging Plaintiff overdraft fees for transaction items despite Plaintiff having money in her account to cover the transaction.

20. Furthermore, the assessment and unilateral taking of improper overdraft fees, further reduces the balance and amount of funds in the account, resulting in and aggressively causing subsequent, otherwise non-overdrafting transactions to be subsequently treated as transactions for which

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Advia assesses further overdraft fees. A complete evaluation of Advia's records is necessary to determine the full extent of Plaintiff's harm from this practice.

### **CLASS ACTION ALLEGATIONS**

21. Plaintiff brings this case, and each of her respective causes of action, as a class action pursuant to Federal Rule of Civil Procedure 23(a), (b)(2) and (b)(3) on behalf of the following classes:
  22. The "Class" is composed of two potential classes.

#### **The Positive Balance Class:**

**All US residents who have or have had accounts with Advia who incurred overdraft fees for transactions when there was money in the checking account to cover the transactions in the six years preceding the filing of the Complaint.**

#### **The Regulation E Class:**

**All US residents who have or have had accounts with Advia who were opted into the overdraft program for ATM and non-recurring debit card transactions through the use of an opt-in agreement which provided inaccurate or misleading information on Advia's overdraft program in violation of Regulation E, and were assessed overdraft charges resulting from ATM and/or non-recurring debit card transaction since August 15, 2010.**

23. Excluded from the above Class is any entity in which Defendant has a controlling interest, and officers or director of Defendant, this Court and any employees assigned to work on the case, and all employees of the law firms representing Plaintiff and the Class.
24. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of her claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

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25. This action has been brought and may be properly maintained on behalf of each of the Class proposed herein under Federal Rule of Civil Procedure 23.

26. **Numerosity of the Class (Federal Rule of Civil Procedure 23(a)(1))** – The members of the Class are so numerous that a joinder of all members would be impracticable. While the exact number of the members of the Class is unknown to Plaintiff at this time and can be determined only by appropriate discovery, Plaintiff believes that the Class is likely to include thousands of members.

27. Upon information and belief, Defendant retains the databases, or other documentation, of transactions and account enrollment which will be analyzed by an expert to ascertain all members of the Class who have been harmed by the practice. Further, the Class definition identifies groups of unnamed plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description. Other than by direct notice by mail or email, alternatively proper and sufficient notice of this action may be provided to the Class members through notice published in newspapers or other publications.

28. **Commonality (Federal Rule of Civil Procedure 23(a)(2))** – The action involves common questions of law and fact. Those common questions of law or fact predominate over questions that may affect only individual Class members. The questions of law and fact common to Plaintiff and the Class members include, among others, the following:

- a. Whether Defendant had standardized Agreements during the class period that were provided to customers;
- b. Whether Defendant breached that customer agreements by use of an automated system of assessing overdraft fees for transactions when customers' checking accounts had money to cover the transactions;
- c. Whether Defendant's conduct violated 12 C.F.R. § 1005.17.

29. **Typicality (Federal Rule of Civil Procedure 23(a)(3))** – Plaintiff’s claims are typical of all of the members of the Class. The evidence and the legal theories regarding Defendant’s alleged wrongful conduct are substantially the same for Plaintiff and all of the Class members, as the relevant agreements and the challenged overdraft fee practice that was applied to customers’ accounts are uniform for all Class members.

30. **Adequacy (Federal Rule of Civil Procedure 23(a)(4))** – Plaintiff will fairly and adequately protect the interests of the Class members. Plaintiff has retained competent counsel experienced in class action litigation to ensure such protection. There are no material conflicts between the claims of the representative Plaintiff and the members of the Class that would make class certification inappropriate. Plaintiff and her counsel intend to prosecute this action vigorously.

31. **Predominance and Superiority (Federal Rule of Civil Procedure 23(b)(3))** – The common questions of law or fact identified herein and to be identified through discovery predominate over questions that may affect only individual Class members. Further, the class action is superior to all other available methods for the fair and efficient adjudication of this case or controversy. Because the injury suffered by the individual Class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for Plaintiff and Class members individually to seek redress for the alleged wrongful conduct. Even if any individual persons or group(s) of Class members could afford individual litigation, it would be unduly burdensome to the courts in which the individual litigation(s) would proceed. The class action device is preferable to individual litigation(s) because it provides the benefits of unitary adjudication, economies of scale, and comprehensive adjudication by a single court. In contrast, the prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members that would establish incompatible standards of conduct for the party (or parties) opposing the Class and would lead

to repetitious trials of the numerous common questions of fact and law. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. As a result, a class action is superior to other available methods for the fair and efficient adjudication of this controversy. Absent a class action, Plaintiff and the Class members will continue to suffer losses, thereby allowing these violations of law to proceed without remedy and allowing Defendant to retain the proceeds of their ill-gotten gains.

32. Plaintiff contemplates the eventual issuance of notice to the proposed Class members setting forth the subject and nature of the instant action. Upon information and belief, Defendant's own business records and electronic media can be utilized for the contemplated notices. To the extent that any further notices may be required, Plaintiff would contemplate the use of additional media and/or mailings.

33. This action is properly maintained as a Class Action pursuant to Rule 23(b) of the Federal Rules of Civil Procedure, in that:

a. Without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual members of the Class will create the risk of:

i. Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the parties opposing the Class; or

ii. Adjudication with respect to individual members of the Class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

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- b. The parties opposing the Class have acted or refused to act on grounds generally applicable to each member of the Class, thereby making appropriate final injunctive or corresponding declaratory relief with respect to the Class as a whole; or
- c. Common questions of law and fact exist as to the members of the Class and predominate over any questions affecting only individual members, and a Class Action is superior to other available methods of the fair and efficient adjudication of the controversy, including consideration of:
- i. The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
  - ii. The extent and nature of any litigation concerning controversy already commenced by or against members of the Class;
  - iii. The desirability or undesirability of concentrating the litigation of the claims in the particular forum;
  - iv. The difficulties likely to be encountered in the management of a Class Action.

### **FIRST CAUSE OF ACTION**

#### **(For Breach of Contract)**

34. The preceding allegation are incorporated by reference and realleged as if fully set forth herein.
35. Plaintiff and each of the Class members entered into contracts covering the subject of overdraft transactions, which was drafted by and is binding on Defendant. In addition, certain of the Class members entered into an Opt-In Agreement with Defendant.

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36. The contracts authorize Defendant to assess overdraft fees only for transactions for which there was not money in the account to pay the item.

37. In addition, good faith is an element of every contract pertaining to the assessment of overdraft fees. Whether by common law or statute, all such contracts impose upon each party a duty of good faith and fair dealing. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Thus, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

38. The material terms of the contracts also included the implied covenant of good faith and fair dealing, whereby Defendant covenanted that it would, in good faith and in the exercise of fair dealing, deal with Plaintiff and each Class member fairly and honestly and do nothing to impair, interfere with, hinder, or potentially injure Plaintiff's and the Class members' rights and benefits under the contract.

39. Plaintiff and the Class members have performed all conditions, covenants, and promises required by each of them on their part to be performed in accordance with the terms and conditions of the contracts, except for those they were prevented from performing or which were waived or excused by Defendant's misconduct.

40. Defendant breached the expressed terms of the contracts by, inter alia, assessing overdraft fees when there was money in the account to pay the item.

41. Alternatively, Defendant breached the implied covenant of good faith and fair dealing based on this practice.

42. As a proximate result of Defendant's breach of the contracts, Plaintiff and the Class

members have been damaged in an amount to be proven at trial and seek relief as set forth in the Prayer below.

## **SECOND CAUSE OF ACTION**

### **(Violation of Electronic Funds Transfer Act)**

43. The preceding allegations are incorporated by reference and realleged as if fully set forth herein.

44. Because of its failure to truthfully and accurately describe, set forth the types of transactions for, and provide the conditions under which an overdraft fee will be assessed, Defendant failed to comply with Regulation E, 12 C.F.R. § 1005.17, which requires affirmative consent before a financial institution is permitted to assess overdraft fees on customers' accounts through an overdraft program for ATM and non-recurring debit card transactions. Specifically, Defendant expressly stated in the Opt-in Agreement that it would only assess an overdraft fee for transactions for which there is not enough money in the account to cover the transaction, when in actual practice, Defendant assesses overdraft fees even when there is money in the account to cover the transaction.

45. As a result of assessing overdraft fees in circumstances for which it did not garner the consent necessary to do so pursuant to Regulation E, Defendant has harmed Plaintiff and the Class.

46. Because of Defendant's failure to comply with 12 C.F.R. § 1005.17 it is liable for actual and statutory damages, as well as attorney fees and costs of suit pursuant to 12 U.S.C. § 1693m.

## **PRAYER**

WHEREFORE, Plaintiff and the Class pray for judgment as follows:

1. For an order certifying this action as a class action;
2. For compensatory damages on all applicable claims and in an amount to be proven at trial;

3. For an order requiring Defendant to disgorge, restore, and return all monies wrongfully obtained together with interest calculated at the maximum legal rate;
4. For an order enjoining the wrongful conduct alleged herein, including ceasing to charge overdraft fees for transactions for which there are sufficient funds/ money in the account, and providing accurate and reliable information regarding the overdraft practice;
5. For costs;
6. For interest;
7. For attorneys' fees as permitted by statute, under the common fund doctrine, other applicable law, and the customer account agreement; and
8. For such other relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff and the Class members demand a trial by jury on all issues so triable.

Respectfully Submitted,

DATED: February 9, 2016

BY: /s/ Philip J. Goodman

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\**Pro Hac Vice* applications to be submitted

*Attorneys for Plaintiff Becky Pingston-Poling  
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# EXHIBIT 1



## Member Account Agreement & Truth in Savings Disclosure

Effective October 1, 2014

### IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: when you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

### AGREEMENT AND DISCLOSURES

In this Agreement, the words "we", "our", and "us" mean the Credit Union and the words "you" and "your" refers to anyone who signs the Signature Card ("Card"). The word "account" means any one or more share or other accounts at the Credit Union. This Agreement covers the member's and owners' and the Credit Union's rights and responsibilities concerning accounts offered by the Credit Union. This document, along with any other documents we provide you pertaining to your account(s), is a contract that establishes terms which control your account(s) with us. Please read this carefully. If you sign the signature card or open or continue to have your account(s) with us, you agree to these terms. This Agreement also includes certain disclosures required under the National Credit Union Administration and Federal Reserve Board regulations and commentary, the Electronic Fund Transfer Act (Regulation E), the Michigan Electronic Funds Transfer Act, the Funds Availability Act (Regulation CC), the Reserve Requirements of Depository Institutions (Regulation D), the National Credit Union Administration (NCUA) Rules and Regulations Part 707 (Truth-In-Savings Act), Part 716 (Privacy of Consumer Financial Information), Part 717 (Fair Credit Reporting) and Part 748 (Safeguarding Member Information), and Uniform Commercial Code Article 4A.

### Liability

You agree, for yourself (and the person or entity you represent if you sign as a representative of another) to the terms of this account and the schedule of charges that we impose. You also agree to pay additional reasonable charges we may impose for services you request which are not covered by this agreement. Each of you also agrees to be jointly and individually liable for any account deficit resulting from charges or overdrafts, whether caused by you or another authorized to withdraw from this account, and our costs to collect the deficit including to the extent permitted by law, our reasonable attorneys fees. You agree that at our option we may suspend your membership rights if you violate the terms of this agreement.

### Deposits

Any items, other than cash, accepted for deposit (including items drawn "on us") will be given provisional credit only until collection is final. Actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars. We are not responsible for transactions initiated by mail or outside depository until we actually record them. All transactions received after our "daily cut-off time" on a business day we are open, or received on a day in which we are not open for business, will be treated and recorded as if initiated on the next following business day that we are open. If this account earns dividends, we are prohibited by law from guaranteeing the payment of dividends or that dividends we do pay will be at the contracted rate. We must base our dividend payments to you upon the money we actually earn and that is available for distribution at the end of

a dividend period. Unless otherwise agreed, you waive any right to receive any original item after it is paid.

### Funds Availability, Non-Transaction Accounts

If you make a non-cash deposit into any share account other than a Checking Account, that money may not be available to you right away. We will advise you when such funds will be available at the time you make such a deposit. A minimum hold of at least three (3) days will apply to any personal check presented and accepted for deposit within the first ninety (90) days an account, other than a Checking Account, is opened. We reserve the right to shorten or extend all such holds for a reasonable period of time at our discretion. Relationship levels within our Member Advantage Program may affect determination of a reasonable hold time. Please see program details for updated information. If you make a deposit by authorizing us to receive funds from another account (for example, from a savings account at another credit union or bank), that deposit will not be available, nor will it earn dividends, until we actually receive the funds. Refer to the section below entitled YOUR ABILITY TO WITHDRAW FUNDS for information regarding the availability of funds deposited into Checking Accounts.

### Withdrawals

Unless clearly indicated otherwise on the account records, any of you, who signs in the space designated for signatures on the signature card, including any agents, may withdraw or transfer all or any part of the account balance at any time, subject to any restrictions provided herein, on forms approved by us. Each of you (until we receive written notice to the contrary) authorizes each person signing on the signature card to endorse any item payable to you or your order to deposit to the account or any other transaction with us. The fact that we may honor withdrawal requests which overdraw the finally collected account balance does not obligate us to do so, unless required by law. Withdrawals will first be made from collected funds, and we may, unless prohibited by law or our written policy, refuse any withdrawal request against uncollected funds, even if our general practice is to the contrary. We reserve the right to refuse any withdrawal or transfer request which is attempted by any method not specifically permitted, which is for an amount less than any minimum withdrawal requirement, or which exceeds any frequency limitation. Even if we honor a nonconforming request, repeated abuse of the stated limitations (if any) may eventually force us to close the account. We will use the date a transaction is completed by us (as opposed to the day you initiate it) to apply the frequency limitations. We reserve the right to, at any time, require not less than seven (7) days notice in writing before each withdrawal from an interest-bearing account other than a time deposit, or from any other savings account as defined by Regulation D. The maximum cash back withdrawal limit within any Advia Credit Union branch lobby and drive-thru is \$1,000 and \$500, respectively. Withdrawals from a time deposit prior to maturity or prior to the expiration of any notice period may be restricted and may be subject to penalty. See the Early Withdrawal Penalties in the TRUTH IN SAVINGS disclosures below.

### Requirements for Depositing Funds

You may deposit funds into any account using any approved method consistent with the conditions set forth by Advia Credit Union's Truth-in-Savings Disclosure.

### Deposits; Endorsements

Transfers, checks, drafts and other items may be received for deposits into any of your accounts if they are payable to, or to the order of, one or more account owner(s), even if all payees fail to endorse them. If we choose, we

may furnish missing endorsements of any owner. If a check, draft, or item that is payable to two or more owners is unclear as to whether it is made out to either or both, we may process that check, draft, or item as though it is payable to either person. When you deposit items into your account you warrant that all prior endorsements are genuine. We reserve the right to verify all endorsements on third party checks presented for payment or deposit either in person or by comparison with member account agreements. If an insurance check, a government check, or other check or draft specifies endorsement requirements on the back of the check or draft, we may require exact endorsement as stated on the item. You are liable for any loss we incur from any delay or processing error due to an incorrect endorsement or other marks made by you or any previous endorser. We may disregard information on the check other than the signature of the drawer and amount of the item and magnetic encoded information. You agree that we do not fail to use ordinary care in paying an item solely because its procedures do not provide for sight examination of items.

#### **Collection of Items**

So long as we exercised reasonable care, we are not liable for handling items for deposit or collections, as we serve only as your agent. We do not claim responsibility for a deposit made by mail or at an Automated Teller Machine until the item is in our possession. We are not liable for any mishandling of any item by another party or its loss in transit. Each separate party will only be liable for its own negligence. We reserve the right to send any item for collection. Items drawn on an institution not located in the United States are exclusively processed on a collection basis. You forgo the right to any notice of nonpayment, presentment, protest, or dishonor regarding the items we buy or acquire for credit or collection to your account.

#### **Payment Order of Items**

The law permits us to pay items (such as checks or drafts) drawn on your account in any order. To assist you in handling your account with us, we are providing you with the following information regarding how we process the items that you write. When processing items drawn on your account, our policy is to pay them in the order that they are received. The order in which items are paid is important if there is not enough money in your account to pay all of the items that are presented. There is no policy that is favorable in every instance. If the smallest items are paid first, you may have fewer NSF or overdraft fees, but the largest, and perhaps more important items (such as rent or mortgage payments) might not be paid. If an item is presented without sufficient funds in your account to pay it, we may, at our discretion, pay the item (creating an overdraft) or return the item (NSF). The amounts of the overdraft and NSF fees are disclosed elsewhere. By paying items in the order that we receive them, we think our policy attains a reasonable balance between minimizing additional cost to you and paying your more important items. We encourage you to make careful records and practice good account management. This will help you to avoid writing checks or drafts without sufficient funds and incurring the resulting fees.

#### **Postdated Items**

We are not liable to you if we clear a postdated check prior to the date on the check. However, if you notify us of a postdated check and provide this notice in time for us to be able to act on it, we will treat your notice as a stop-payment order. We are under no obligation to you to pay a check that is more than (6) six months old unless the check has been certified by us.

#### **Ownership of Account and Beneficiary Designation**

These rules apply to this account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We reserve the right to refuse some forms of ownership on any or all of our accounts. Individual Account – is an account in the name of one person. Joint Account – With Survivorship (And Not as Tenants In Common) is an account in the name of two or more persons. Each of you intends that upon your death the balance in the account will belong to the survivor(s). If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common. If beneficiaries are named, those beneficiaries acquire the right to withdraw only if: (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive, the death of all persons creating the account, such beneficiaries will own this account in equal shares, without right survivorship.

#### **Stop Payments**

A stop payment order must be given in the manner required by law and must be received in time to give us a reasonable opportunity to act on it before our stop payment cut off time. Additional limitations on our obligation to stop payment are provided by law (e.g., we paid the item in cash or we certified the item). A stop payment order must precisely identify the number, date and amount of the item, and the payee. We will honor a stop payment request by the person who signed the particular item and by any other person even though such other person did not sign the item, if such other person has an equal or greater right to withdraw from this account than the person who signed the item in question. A release of the stop payment request may be made only by the person who initiated the stop payment.

#### **Termination of Account**

We may terminate your account at any time without notice to you, or we may require you to close your account and apply for a new account if: (a) there is a change in owners or authorized signers; (b) there has been a forgery or fraud reported or committed involving your account; (c) there is a dispute as to the ownership of the account or of the funds in the account; (d) any checks, or cards are lost, stolen, or the number has been compromised; (e) there are excessive returned unpaid items not covered by an overdraft protection plan; (f) there has been any misrepresentation or any other abuse of any of your accounts; or (g) we reasonably deem it necessary to prevent a loss to us. You may terminate a single party account by giving written notice. There may be a fee for termination of account, processing an account number change, or replacing lost or stolen cards. Refer to our current schedule of fees. We reserve the right to require the consent of all owners to terminate a multiple party account. We are not responsible for payment of any check withdrawal, or other item after your account is terminated, however, if we pay an item after termination, you agree to reimburse us.

#### **Termination of Membership**

You may terminate your membership by giving us notice. You may be denied services or expelled for any reason allowed by applicable law, including causing a loss to the Credit Union. If your Regular Share Account balance drops below the \$5.00 minimum membership deposit requirement and is not replenished within forty-five (45) calendar days, as provided in the Credit Union's Bylaws, your account will be closed and your membership will be terminated.

#### **Statements**

You must examine your statement of account with "reasonable promptness." If you discover (or reasonably should have discovered) any unauthorized payment or alterations, you must promptly notify us of the relevant facts. As between you and us, if you fail to do either of these duties, you will have to either share the loss with us, or bear the loss entirely yourself (depending on whether we used ordinary care and, if not, whether we substantially contributed to the loss). The loss could be not only with respect to items on the statement but other items forged or altered by the same wrongdoer. You agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not, in any circumstance, exceed a total of 30 days from when the statement is first sent or made available to you. You further agree that if you fail to report any unauthorized signatures, alterations, forgeries or any other errors in your account within 60 days of when we first send or make available your statement, you cannot assert a claim against us on any items in that statement, and as between you and us the loss will be entirely yours. This 60-day limitation is without regard to whether we used ordinary care. The limitation in this paragraph is in addition to that contained in the first paragraph of this section.

#### **Account Transfer**

This account may not be transferred or assigned without our prior written consent.

#### **Direct Deposits**

If, in connection with a direct deposit plan, we deposit any amount in an account which should have been returned to the Federal Government for any reason, you authorize us to deduct the amount of our liability to the Federal Government from the account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of our liability.

#### **Restrictive Legends**

We are not required to honor any restrictive legend or items you write unless we have agreed in writing to the restriction. Examples of restrictive legends are "must be presented within 90 days" or "two signatures required" or "not valid for more than \$1,000.00."

#### **Facsimile Signatures**

You authorize us, at any time, to charge you for all checks, drafts, or other orders for the payment of money, that are drawn on us regardless of by whom or by what means the facsimile signature(s) may have been affixed so long as they resemble the facsimile signature specimen on the signature card or that are filed separately with us, and contain the required number of signatures for this purpose.

#### **Statutory Lien and Offset**

If you owe us money as a borrower, guarantor, endorser or otherwise, we have a right to impress and enforce a statutory lien on the shares and dividends in any account in which you have an ownership interest, regardless of their source, unless prohibited by law. We may enforce this right without further notice to you. We may apply these funds in any order to pay off your indebtedness. By not enforcing a lien, we do not waive our right to enforce it later. Our rights to impress and enforce a lien do not apply to any Individual Retirement Account or other tax-deferred retirement account, or with regard to any loan agreement in which we have expressly waived these rights. In addition, you grant us a consensual security interest in your accounts and authorize us to use the funds from your accounts to pay any debt or amount now or hereafter owed the Credit Union, unless prohibited by law. We will not be liable for the dishonor of any check or draft when the dishonor occurs because we impress and / or enforce our lien. You agree to hold us harmless from any claim arising as a result of our exercise of our rights under this section. Some government payments (such as Social Security, Supplemental Security Income, Veterans and other federal or state benefits) may be protected from attachment, levy, garnishment or other legal process under federal or state law. If such protections would otherwise apply to deductions we make for amounts you owe us, to the extent that you may do so by contract, you waive these protections and agree that we may use these funds to pay fees, overdrafts and other amounts you owe us under this Agreement.

#### **Overdraft Transfer Clause**

The Credit Union is under no obligation to pay a check that exceeds the fully paid and collected share balance in this Account; the Credit Union may, however, pay such check and transfer shares to this Account in the amount of the resulting overdraft, plus a transfer fee, from any other regular share account from which any of the undersigned is then eligible to withdraw shares. The Credit Union may also, at its option, overdraw this account to pay a check and charge a fee as disclosed in the Credit Union's Service Fee Schedule.

#### **Unclaimed Funds**

The balance in the Account may become unclaimed funds escheatable to the State if, as shown by the Credit Union's records, an owner, has not, within the statutory period, caused any activity or received any payments with regard to the Account, indicated any interest in the Account, corresponded with the Credit Union concerning the Account, or otherwise indicated an interest in the Account as evidenced by writing on file with the Credit Union, or transacted any business with the Credit Union.

#### **Taxpayer Identification Numbers and Backup Withholding**

Your failure to furnish a correct Taxpayer Identification Number (TIN) or meet other requirements may result in backup withholding. If your account is subject to backup withholding, we must withhold and pay to the Internal Revenue Service (IRS) a percentage of dividends, interest, and certain other payments. If you fail to provide your TIN, we may suspend opening your account.

#### **Overdraft Courtesy Pay Plan**

Courtesy Pay is a discretionary service that allows us to pay charges against our member's checking account even if it causes the account to become overdrawn. Courtesy Pay may provide certain account holders in "good standing" with the ability to overdraw their personal checking account. We are not obligated to pay any item presented for payment if your account does not contain sufficient funds. If the account has been maintained in good standing, defined as: (a) Making regular deposits sufficient to cover

transactions; (b) Bringing the account to a positive balance at least once every thirty days or less, and: (c) There are no legal orders outstanding on your account, we may, at our sole discretion, pay overdrafts, including our normal Courtesy Pay charge(s). Whether we pay or return an item, your account will be assessed an Overdraft fee. This non-contractual courtesy of paying overdrafts requires no accountholder action. It is not a loan. No additional agreements need to be signed, and it costs nothing unless the privilege is used – by initiating checks, electronic fund transfers, or other payment or withdrawal requests for more than is on deposit in the account. Certain transactions including ATM and one-time debit require additional opt-in pursuant to federal law. If you maintain the account in good standing and have need for this "courtesy", we may, at our sole discretion, pay the item(s) up to the authorized limit, and we will charge the account our normal Overdraft fee for each item that overdraws the account. We will send you a notice each time an overdraft occurs. If you receive a direct deposit of your monthly Social Security payment into your checking account and do not want Courtesy Pay eligibility, you must advise us to stop us from paying your overdrafts with these funds. Courtesy Pay should not be viewed as an encouragement to overdraw your account. In the event you would like to have this privilege removed from your account, you can do so by calling Member Services at 844-238-4228.

#### **Agency Designation on an Account**

An agency designation on an account is an instruction to us that the owner authorizes another person to make transactions as agent for the account owner regarding the accounts designated. An agent has no ownership interest in the account(s) or Credit Union voting rights. We are not required to accept any agency designation unless specifically required by law, but we may choose to accept such designations at our discretion. We have no duty to inquire about the use or purpose of any transaction made by the agent, but we reserve the right to deny any withdrawal request. Account owners agree to hold the Credit Union harmless for any loss resulting from any withdrawal from an agency account.

#### **Legal Process**

If any legal action or dispute is brought against or involving your account, we may pay out funds according to the terms of the action or refuse any pay out until the dispute is resolved. Any expenses or attorney fees we incur responding to legal process may be charged against your account without notice, unless prohibited by law. Any legal process against your account is subject to our statutory lien and security interest.

#### **Indemnity**

If by following your instructions we are exposed to a claim or suit by an adverse claimant, you shall hold us harmless and indemnify us from any such losses, expenses, liabilities or damages including actual attorney's fees. If you ask us to follow instructions that we believe might expose us to claims, suits, losses, expenses, liabilities or damages, whether directly or indirectly, we may refuse to follow your instructions, or we may require a bond or other protections.

#### **Notices**

Notices to us should be sent to: Advia Credit Union, 550 S. Riverview Dr., Parchment, MI 49004. You are responsible for notifying us of any address, e-mail address or name change. Whenever we are required to send you notice, the Credit Union is only required to attempt to communicate with you at the most recent address you have provided to us in writing. The Credit Union may require all notices of change in address, e-mail address or name to be in writing. Documentation will be required to process a name change identifying the new legal name. Other documents including Secretary of State filings may not suffice to demonstrate an individual person's name change. All notices regarding the account will be posted in our office lobbies, sent to you at the address shown on your statement, or delivered on or with your statement or appended to your electronic statement (e-statement) if that service is available and you have chosen to receive e-statements. In the event of joint ownership, notice by or to any one joint owner shall be deemed notice by or to all. Any written notice you give us is effective when we receive it. Any written notice we give to you is effective when it is deposited in the U.S. Mail, postage prepaid and addressed to you at your statement mailing address or at the time that an electronic message is sent informing you that your electronic statement or notice is available.

#### **Governing Law**

This Agreement shall be governed by and construed in accordance with all applicable federal laws and all applicable substantive laws of the State of Michigan, except where expressly superseded by the laws of the State where you opened your account, and the Bylaws of the Credit Union as they now exist or may be hereafter amended. You understand that we must comply with these laws, regulations, and rules. You agree that if there is any inconsistency between the terms of the Agreement and any applicable law, regulation, or rule, the terms of this Agreement will prevail to the extent any such law, regulation or rule may be modified by agreement between us.

#### **Severability**

If any of the Agreement is found by any other court or regulatory body of competent jurisdiction to be invalid or unenforceable in whole or in part for any reason whatsoever, the authority of the remaining provisions or portions hereof shall not be affected thereby.

#### **Waiver**

We may waive any of these provisions at our sole discretion, but any such waiver will apply only on that occasion. If we chose to waive any provision, we will not be bound to waive the same provision or any other provision on another occasion.

### **FUNDS AVAILABILITY POLICY** (Regulation CC)

The following information describes the Credit Union's policy of holding items deposited into Checking Accounts (also known as "transaction accounts") before funds are made available to you for withdrawal. This is what is called a Funds Availability Policy disclosure and is provided in compliance with the Federal Expedited Funds Availability Act and Regulation CC.

#### **Your Ability to Withdraw Funds**

Our policy is to make funds from your deposits available for withdrawal no later than the first business day after the day we receive your deposit. Electronic direct deposits will be available on the settlement date and not necessarily the day we receive your deposit. At that time, you can withdraw the funds in cash and we will use the funds to pay checks that you have written. For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before closing on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after closing or on a day we are not open, we will consider the deposit was made on the next business day we are open.

#### **Longer Delays May Apply**

In some cases we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the fifth business day after the day of your deposit. The first \$200 of your deposits, however, will be available the first business day. If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the first business day after we receive your deposit. If you need the funds from a deposit right away, you should ask us when the funds will be available. In addition, funds you deposit by check may be delayed for a longer period under the following circumstances: (a) we believe a check you deposit will not be paid; (b) you deposit checks totaling more than \$5,000 on any one day; (c) you redeposit a check that has been returned unpaid; (d) you have overdrawn your account repeatedly in the last six months; (e) there is an emergency; such as failure of communication or computer equipment. We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the eleventh business day after the day of your deposit. We reserve the right to shorten or extend all such holds for a reasonable period of time at our discretion. Relationship levels within our Member Advantage Program may affect determination of a reasonable hold time. Please see program details for updated information.

#### **Holds on Other Funds**

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are

already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it. If we accept for deposit a check that is drawn on another financial institution, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

#### **Special Rule For New Accounts**

If you are a new member, the following special rules may apply during the first thirty (30) days your account is open. Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, traveler's checks, and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you. The excess over \$5,000 may not be available until the ninth business day after the day of your deposit. Funds from all other check deposits will generally be available no later than the eleventh business day after the day of your deposit. For any other purpose, not to conflict with applicable law, the Credit Union defines new accounts as those which have been open for ninety (90) days or fewer. We reserve the right to shorten or extend all such holds for a reasonable period of time at our discretion. Relationship levels within our Member Advantage Program may affect determination of a reasonable hold time. Please see program details for updated information.

#### **Substitute Checks and Your Rights**

To make check processing faster, federal law permits banks and credit unions to replace original checks with "substitute checks." These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check. Some or all of the checks that you receive back from us may be substitute checks. This notice describes rights you have when you receive substitute checks from us. The rights in this notice do not apply to original checks or to electronic debits to your account. However, you have rights under other laws with respect to those transactions.

#### **What Are My Rights Regarding Substitute Checks?**

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, returned item or overdraft fees). The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to interest on the amount of your refund if your account is an interest-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law. If you use this procedure, you may receive up to \$2,500 of your refund within 10 business days after we received your claim and the remainder of your refund not later than 45 calendar days after we received your claim. We may reverse the refund if we later are able to demonstrate that the substitute check was correctly posted to your account.

#### **How Do I Make a Claim for a Refund?**

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please contact us at 844-238-4228, or 550 S. Riverview Drive, Parchment, MI 49004. You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include:

- A description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
- A copy of the substitute check and/or the following information to help us identify the substitute check; the check number; the name of the person to whom you wrote the check; and the amount of the check.

## **ELECTRONIC FUNDS TRANSFER DISCLOSURE STATEMENT**

This Electronic Funds Transfer Agreement is the contract which covers your and our rights and responsibilities concerning consumer electronic funds transfer (EFT) services as defined by the Electronic Fund Transfer Act (15 U.S.C. 1693, et seq) and Regulation E (12 CFR 205 et seq). Electronic Fund Transfers include all transfers resulting from automated teller machine (ATM) cards, point of sale (POS) debit cards, preauthorized transfers, telephone transfers, electronic check transactions, online banking and bill pay. By signing an application or account card for EFT services, signing your Card, or using any service, each of you, jointly and severally, agree to the terms and conditions in this Agreement and any amendments for the EFT services offered. In this Agreement, the words "you" and "yours" mean those who sign the application or account card as applicants, joint owners, or any authorized users. The words "we", "us", and "our" mean the Credit Union. The word "account" means any one or more share and checking accounts you have with the Credit Union.

### **Consumer Member Liability**

Tell us AT ONCE if you believe your Card, Password or Personal Identification Number (PIN) has been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your check. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within two (2) business days after you learn or had reason to know of the loss or theft of your card and/or PIN, you can lose no more than \$50.00 if someone used your Card and/or code without your permission. If you do NOT tell us within two (2) business days after you learn or have reason to know of the loss or theft of your Card and/or PIN, and we can prove that we could have stopped someone from using your Card or code without your permission if you had told us, you could lose as much as \$500.00. Also, if your statement shows transfers that you did not make, including those made by card, password and/or PIN or other means, tell us at once.

If you do not tell us within sixty (60) days after the statement was mailed to you, you may not get back any money you lost after the sixty (60) days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

### **Notification of Lost or Stolen Card, Password or PIN**

If you believe your Card, Password and/or PIN has been lost or stolen, call us at: 844-238-4228. Or write to us at: Advia Credit Union, ATTN: Member Services 550 South Riverview Drive; Parchment, Michigan 49004  
You should also call the number or write to the address listed above if you believe a transfer has been made using the information from your check without your permission.

### **Types of Available Transfers**

**ATM Transactions:** You, or someone you have authorized by giving them your Card, Password and/or PIN may use your Card, Password and/or PIN to: a) deposit funds to your checking or savings account; b) withdraw cash from your checking or savings account; c) transfer funds between your checking and savings account; d) make payments from your checking or savings account on certain indebtedness to the Credit Union; e) obtain advances from certain open-end loan accounts; f) pay for purchases or services at places that have agreed to accept your card; g) obtain balance information or inquiries on your accounts. Some of these services may not be available at all terminals.

**Debit Card Transactions:** You may access your Checking account to purchase goods (in person or by phone), pay for services (in person or by phone), and

get cash from a merchant, if the merchant permits, or from a participating financial institution.

**Electronic Check Conversion ("E-Check"):** You may also authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to pay for purchases or pay bills. This authorization may occur when you provide a check to certain merchants or other payees that enables the merchant or other payee to capture the routing, account, and serial numbers to initiate the transfer, whether the check is blank, partially completed, or fully completed and signed; whether the check is presented at the point of sale or is mailed to a merchant or other payee or lockbox and later converted to an "electronic fund transfer," or whether the check is retained by the consumer, the merchant or other payee, or the payee's financial institution. This may include your authorization of electronic payment of charges for checks returned for non-payment. Your authorization to make such types of "electronic fund transfers" may be expressed in writing or implied, for example, by the merchant or other payee posting a sign.

**Preauthorized Deposits and Transfers:** You may arrange for certain direct deposits to be accepted into your accounts, including payroll deposits from employer(s) and deposits of various government benefits. Subject to certain limitations and requirements, you can preauthorize transfers from the account(s) you specify.

**Online Banking:** You may access your account via personal computer with internet access 24 hours a day at our website. The types of electronic fund transfers available through Home Banking include: a) transfer funds between your checking and savings account; b) payments from your checking or savings account on certain indebtedness to the Credit Union; c) transfer funds to another member account with the Credit Union (requires previous authorization form completion).

**Online Bill Pay:** Online bill pay service is available to you through our Home Banking. This service allows you to pay bills from your designated account (checking or savings).

**24 Hour Telephone Transactions:** You may make access by telephone 24 hours a day by calling 269.382.9866 (888.898.2672), using your Personal Identification Number ("PIN") and a touch tone telephone to conduct the following EFTs: a) transfer funds to other account types within your own account; b) make loan payments; c) transfer funds to another member account with the Credit Union (requires previous authorization form completion).

### **Limitations on the Frequency and Amount of Transfers**

Certain limits exist on the dollar amounts which may be withdrawn from different ATM or POS terminals each day. All transfers are charged to your account (and your overdraft line of credit, if any). We may charge your account even though an overdraft may be created. During any interruption of an electronic fund transfer service the dollar amount and frequency may be reduced. All deposits made through an ATM are accepted conditionally, subject to verification of the contents of deposit envelopes, and are available for withdrawal only in accordance with our current Funds Availability Policy. We may restrict, and you have the right to request that we program our system so that no more than \$50.00 can be withdrawn from your account(s) by use of your Check Card/ATM Card during a single day. There may be other limitations on the types, frequency, timing and amount of electronic fund transfers established by us from time to time, without notice, for security purposes.

### **Right to Receive Documentation of Transfers**

**Terminal Receipts:** You can get a receipt at the time you make any transfer to or from your account using an ATM or POS terminal. Exception for receipts in small value transfers - A financial institution is not subject to the requirement to make available a receipt at an electronic terminal if the amount of the transfer is \$15 or less.

**Periodic Statements:** Transfers and withdrawals made through any Debit Card transactions, audio response transactions, preauthorized EFTs, electronic/PC transactions or bill payments you make will be recorded on your periodic statement. You will receive a statement monthly unless there is

no transaction in a particular month. In any case, you will receive a statement at least quarterly.

**Direct Deposits / Preauthorized Credits:** If you have arranged to have direct deposits made to your account at least once every sixty (60) days from the same source and you do not receive a receipt (such as a pay stub), you can find out whether or not the deposit has been made by calling us at 844-238-4228. If the only possible transfer to or from your account are direct deposits, you will receive a quarterly statement from us.

#### **Excluded Transactions**

Our data processing system makes it possible to offer you many electronic services, however, some of these services do not constitute "electronic fund transfers" for the purpose of this disclosure, such as, for example, transactions on business accounts, deposits of payroll deduction from certain employers, payment of premiums for individual or family group life insurance by deduction from your account(s) in the Credit Union, automatic transfers from your account(s) to pay your loan(s) owing to us, automatic transfers between your own "asset account(s)" in the Credit Union, and transfers received via Fedwire or through a similar wire transfer system, such as "A2A" Money Transfer System, that is used primarily for transfers between financial institutions or between businesses. The terms and conditions of this Agreement apply only to those services and transfers, which are "electronic fund transfers" as described above; they do not apply to other transactions which, although electronic in nature, do not constitute "electronic fund transfers" described above.

#### **Rules for Business Member Electronic Fund Transfers:**

**Liability:** You agree that any electronic fund transfers on a business account will not be considered a consumer transaction, regardless of the nature of the specific transaction, under the provisions of state and federal law. You will not have the benefit of any limitation of liability with respect to the unauthorized electronic fund transfers. You accept and agree to undertake the additional risk associated with the use of business purpose accounts and agree to assume the greater measure of liability described in this agreement.

**Limitation of Liability:** We will be liable only for our own gross negligence or willful misconduct and will not be responsible for any loss or damage arising from or in connections with (1) any inaccuracy, act or failure to act on the part of any person not within our reasonable control or (2) any error, failure or delay in execution of any Transfer resulting from circumstances beyond our reasonable control, including, but not limited to any inoperability of communications facilities or other technological failure. Provided we have complied with our obligations under this Agreement, you agree to indemnify, defend, and hold us harmless against any claim of a third party arising from or in connections with this Agreement or the service we provide hereunder. In no event will be liable for any consequential, incidental, special or indirect losses, damages, including dishonor of checks or other items, or expenses (including counsel fees), which you may incur or suffer by reason

**Error Resolution Procedure:** If you notify us of an error or discrepancy in your periodic account statement with the time limitation described above, we will investigate the matter and notify you of the results of our investigation as soon as we have been able to obtain and verify all relevant information in accordance with the prevailing operating rules of applicable rulemaking bodies. We will have no obligation to credit your account for the amount of any erroneous or unauthorized transaction unless caused by our negligence.

#### **Disclosure of Account Information**

We may disclose information to third parties about your account or the transfer you make: a) where it is necessary for completing transfers; b) to verify the existence and condition of your account for a third party such as a credit bureau or merchant; c) to comply with government agency or court orders; d) if you give us your written permission.

#### **Fees and Charges for Electronic Fund Transfers**

There are certain fees and charges for electronic funds transfer services. The fees and charges are disclosed on our current Fee and Pricing Schedule. From time to time, the charges may be changed. We will notify you as required by applicable law. If you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network used to complete the transfer (and you may be charged a fee for a balance inquiry). The fee will be debited from

your account if you elect to complete the transaction or continue with the balance inquiry.

#### **Credit Union Liability for Failure to Make Transfers**

If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we may be liable for your losses or damages. However, we will not be liable for direct or consequential damages in the following events: a) if, through no fault of ours, you do not have enough money in your account to make the transfer; b) if the transfer would go over the credit limit on your overdraft line; c) if the ATM where you are making the transfer does not have sufficient cash; d) if the terminal or system was not working properly and you knew about the breakdown when you started the transfer; e) if circumstances beyond our control (such as fire or flood) prevent the transaction, despite reasonable precautions that we have taken; f) if you used your Card, Password and/or PIN in an incorrect manner; g) if the error was caused by a system of any participating ATM network; h) any other exceptions as established by the Credit Union.

#### **Preauthorized Transfers**

**Stop Payment Rights:** If you have arranged in advance to make regular transfers from your account(s), you can stop any of these transfers by calling us at 844-238-4228, or writing us at: Adiva Credit Union, 550 S. Riverview Drive, Parchment, MI 49004. We must receive this request at least three (3) business days before the scheduled date of the transfer. If you call, we may also require you to put your request in writing and get it to us within fourteen (14) days after you call. We will charge your account our normal service for each stop payment.

**Liability for Failure to Stop Payment of Preauthorized Transfers:** If you notify us to stop a preauthorized transfer at least three (3) business days before the transfer is scheduled and we do not do so, we will be liable for your losses or damages.

**Notice of Varying Amounts:** If these regular transfers vary in amount, the person you are going to pay will tell you, 10 days before each transfer, when it will be made and how much it will be. You may choose instead to get this notice only when the transfer would differ by more than a certain amount from the previous transfer, or when the amount would fall outside certain limits that you set.

**Withdrawal Limitations for Savings Accounts:** For select Savings Accounts there are no limitations on the number of in person or ATM withdrawals by you, but preauthorized or automatic transfers including transfers to third parties or to another account by telephone or pursuant to a preauthorized agreement with us are limited by regulation to six (6) per month. The posting date of a preauthorized or automatic transmission by us will determine the month in which that transaction will be counted. We may charge penalties for exceeding this regulatory limitation and may close the account if you continue to exceed this limitation.

**Foreign Transactions:** For transactions initiated in foreign currencies, the exchange rate between the transaction currency and the billing currency (U.S. dollars) will be (a) a rate selected by MasterCard from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate MasterCard itself receives; or (b) the government-mandated rate in effect for the applicable central processing date.

#### **Error Resolution**

In case of errors or questions about your Electronic Transfers, call us at: 844-238-4228 or write to us at: Adiva Credit Union, ATTN: Member Services, 550 S. Riverview Dr., Parchment, MI 49004, as soon as you can, if you think your statement or receipt is wrong, or if you need more information about a transfer on the account statement or receipt. We must hear from you no later than sixty (60) days after we sent you the FIRST statement on which the error or problem appeared.

1. Tell us your name and account number.
2. Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
3. Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us a confirmation of your complaint or question in writing within ten (10) Business Days. We will determine whether an error occurred within ten (10) business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question. If we decide to do this, we will credit your account within ten (10) business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within ten (10) business days, we may not credit your account. For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to ninety (90) calendar days to investigate your complaint or question. For new accounts, we may take up to twenty (20) business days to credit your account for the amount you think is in error. We will tell you the results within three (3) business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

#### **Confidentiality**

In the ordinary course of business we will only disclose information to non-affiliated third parties concerning your account(s) or "electronic fund transfers" described in Section E under the following circumstances:

- As necessary to complete "electronic fund transfers" or other transactions you have authorized; or
- With your oral or written consent; or
- To verify the existence of your account(s), or sufficient funds necessary to complete "electronic fund transfers" you have authorized through a third party; or
- To furnish information under the federal "Fair Credit Reporting Act;" or
- As provided by law, by court order, or governmental agency inquiry or order; or
- To investigate possible unauthorized "electronic fund transfers," or to combat fraud; or
- If the information relates to improper use of your account(s) or access devices.

#### **Illegal Use**

You understand and agree that "electronic fund transfer" services, including but not limited to use of a Card, may not be used for any illegal transaction. You further understand and agree that illegal use of an "electronic fund transfer" service will be deemed an action of default and/or breach of contract, and as a result your account and other related services may be terminated at the discretion of the Credit Union. You further agree, should illegal use occur, to waive any right to sue the Credit Union for such illegal use or any activity directly or indirectly related to it, and, additionally, to indemnify and hold the Credit Union harmless from any suits or other legal action or liability directly or indirectly resulting from such illegal use. Internet gambling may be illegal in the jurisdiction in which a member is located, including the United States and elsewhere. Display of a payment card logo by an online merchant does not mean that Internet gambling transactions are legal in the jurisdiction in which the member is located. The Credit Union may decline to authorize any transaction the Credit Union believes poses an undue risk of illegality or unlawfulness. The Credit Union will immediately report and comply fully with law enforcement agencies seeking to investigate illegal use of a Credit Union Card or other "electronic fund transfer" service.

**Personal Identification Number (PIN) Secrecy and Member Responsibility**  
If we have issued PINs for use in conjunction with your ATM Card, Online Banking, and/or 24 Hour Automated Telephone Transactions, you agree to keep the PIN(s) secret and you also agree that you will not write the PIN(s) on your card(s) nor on any item you keep with your card(s) or other account information, or store your PIN on your personal computer. Unless you provide evidence to the contrary, the Credit Union will attribute all PIN-based transactions made on your accounts to your own activities.

#### **Regulatory Authority**

If you believe that we may have violated the federal Electronic Funds Transfers Act or its implementing regulation, Regulation E, you may contact: Division of Consumer Affairs - National Credit Union Administration: 1775

Duke Street; Alexandria, Virginia 22314-3428. If you believe that we may have violated the Michigan Electronic Funds Transfers Act (Michigan Public Act No. 322 of 1978), you may contact: State of Michigan - Department of Labor and Economic Growth; Office of Financial and Insurance Services: P.O. Box 30224; Lansing, Michigan 48909

#### **TRUTH IN SAVINGS DISCLOSURE**

**Common Features:** Except as otherwise expressly provided below, the following features apply to all of your accounts with the credit union.

**Rate and Annual Percentage Yield ("APY"):** Your account(s) will earn what are known as dividends. Refer to our current Deposit Rate Sheet for our current dividend rates and Annual Percentage Yield. Dividends are like interest, except that the Credit Union's Board of Directors (the "Board") is responsible for setting the rate of dividends from time to time. Dividends are not guaranteed. The Credit Union estimates a prospective dividend rate and prospective Annual Percentage Yield (APY) on your account(s) for each dividend period. The dividend rates and APY's will be available each business day at our office. You may also contact us at 844-238-4228 for current rate information.

**Calculating and Compounding Dividends:** Dividends are calculated by the average daily balance method, which applies a periodic rate to the average daily balance in the account for the period. The average daily balance is calculated by adding the balance in the account for each day of the period and dividing that figure by the number of days in the period. We compound your dividends, even though the law doesn't require that. Compounding is more favorable to you, because once dividends have been earned by your account they are added to the balance on which you will continue to earn dividends. Because we compound dividends, the actual yield on your account will be somewhat higher than the annual dividend rate.

**Accrual and Crediting of Dividends:** Dividends on all accounts that earn them are paid from current income and available earnings, after required transfers to reserves at the end of a dividend period. Dividends will begin to accrue on the business day you deposit non-cash items (for example, checks) to your account. Dividends are not available to you until they have been credited to your account. Dividends that are credited to your account will be added directly into your account. If you close your account before dividends are paid, you will not receive the accrued dividends.

**Accrual of Dividends on Non Cash Items:** Dividends will begin to accrue no later than the Business Day Credit Union receives credit for the deposit of noncash items (for example, checks) to an account.

**How Withdrawals Affect Dividends:** Even though your account earns dividends every day, we don't actually credit them to your account until the final day of the dividend period, and become available the first day of the subsequent period. Therefore, if you make a withdrawal, you won't receive any further dividends on that amount from the day you make the withdrawal until the day that dividends are credited.

**Bylaw Requirements:** The par value of a regular share in this Credit Union is \$5.00. You must complete payment of one regular share in your Regular Savings Account as a condition of admission to membership. A member who fails to complete payment of one share of his admission to membership, or a member who reduces his share balance below the par value of one share and does not increase the balance to at least the par value of one share of the reduction may be terminated from membership at the end of a dividend period. Shares may be transferred only from one member to another, by written instrument in such form as the Credit Union may prescribe. The Credit Union reserves the right, at any time, to require members to give, in writing, not more than 60 days notice of intention to withdraw the whole or any part of the amounts so paid in by them. No member may withdraw shareholdings that are pledged as required on security on loans without the written approval of the credit committee or a loan officer, except to the extent that such shares exceed the member's total primary and contingent liability to the Credit Union. No member may withdraw any shareholdings below the amount of his/her primary or contingent liability to the Credit Union if he/she is delinquent as a borrower, or if borrowers for whom he/she is co maker, endorser, or guarantor are delinquent, without the written approval of the credit committee or loan officer.

**National Credit Union Share Insurance Fund:** Accounts with this Credit Union are federally insured by the National Credit Union Share Insurance Fund which is administered by the National Credit Union Administration, an agency of the United States Government.

**Fees and Penalties:** Please refer to the separate service charge schedule for current charges that may apply to all accounts. You agree to pay the applicable fees and penalties assessed by the credit union according to the Credit Union's Service Charge Schedule provided to you at the time you open the Account and as amended from time to time in accordance with this Agreement. Members meeting designated qualifiers within our Member Advantage Program may qualify for certain reduced or waived service usage fees. Please see program details for updated information.

The Credit Union may make a change in your Checking Account that will not affect your available balance, dividend earnings, NCUA insurance or credit union statement. This Account will consist of a checking sub account and a savings sub account. The credit union may periodically transfer funds between these two sub accounts. If your Account is an account which dividends are paid, your dividend calculation will remain the same. Otherwise, the savings sub account will be non dividend bearing. The savings sub account will be governed by the rules governing our other savings accounts.

**Regular Savings and Secondary Savings (applicable to both Personal and Business Accounts)**

**Compounding and Crediting:** Dividends will be compounded and credited quarterly.

**Dividend Period:** The dividend period is quarterly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is March 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is March 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** The minimum amount to open the Regular Savings account is the purchase of a \$5.00 share in the Credit Union. There is no minimum balance required in a secondary savings account. A minimum daily balance of \$500.00 is required to earn dividends in the Regular and Secondary Savings account.

**Transaction Limitations:** There are no transaction limitations on this account.

**Youth Savings (Piggy Bank Savings for age 0-12; Bonus Bills for age 13-19; young adult savings terms until age 25) – see additional disclosure related to Bonus Bills Savings Prize Winning**

**Compounding and Crediting:** Dividends will be compounded and credited quarterly.

**Dividend Period:** The dividend period is quarterly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is March 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is March 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** A minimum average daily balance of \$5.00 is required to earn dividends in the Youth Savings account.

**Other Requirements:** The Youth Savings account is designated for members age 24 and under. After the age of 24, account will revert to a Regular Savings account.

**Transaction Limitations:** There are no transaction limitations on this account.

**Money Market Savings Account (applicable to both Personal and Business Accounts)**

**Additional Rate Information:** The dividend rate and annual percentage yield may change at any time, as determined by the board of directors. This

account is tiered which means it pays different dividend rates corresponding to the balance on account, paid on the entire balance within the account.

**Compounding and Crediting:** Dividends will be compounded and credited monthly.

**Dividend Period:** The dividend period is monthly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is January 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is January 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** The minimum average daily balance required to earn dividends on certain balances are set forth on the Deposit Rate Sheet. If during any month, your account balances fall below the required minimum daily balance required to earn stated dividend rate, you will not earn dividends on account during this time period.

**Transaction Limitations:** There are no limitations on the number of in person or ATM withdrawals however; preauthorized or automatic transfers including transfers to third parties or to another account by telephone or pursuant to a preauthorized agreement with the Credit Union are limited by regulation to six (6) per month. If you exceed the transfer limitations set forth above in any statement period, your account may be subject to closure by the Credit Union.

**Holiday Club Account**

**Compounding and Crediting:** Dividends are compounded and paid annually.

**Dividend Period:** Dividend periods are annual beginning on November 1 and ending October 31. Dividends will be paid annually and credited to the account on October 31.

**Minimum Balance Requirements:** There is no minimum balance requirement to earn dividends in the Holiday Club Account.

**Funds Disbursement:** Funds will automatically be transferred and available to your designated Savings or Checking account on November 1.

**Term:** The term on the Holiday Club Account is from November 1st of each year and end October 31st.

**Withdrawals:** Any withdrawal of funds from the Holiday Club Account prior to the end of the term will close the account and interest earned to date will be forfeited.

**IRA Savings Account**

**Compounding and Crediting:** Dividends will be compounded and credited quarterly. Alternatively, you may choose to have dividends paid to you or to other accounts quarterly rather than credited to this account.

**Dividend Period:** The dividend period is quarterly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is March 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is March 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** The minimum amount to open an IRA Savings account is \$50.00. A minimum average daily balance of \$500.00 is required to earn stated dividend rate in the IRA Savings account.

**Non-Interest Savings Account (applicable to both Personal and Business Accounts)**

**Dividend Information:** No dividends are paid on this account.

**Minimum Balance Requirements:** There is no minimum balance requirement on the Non-Interest Savings Account.

**Transaction Limitations:** There are no transaction limitations on this account.

#### **Regular Checking Account**

**Compounding and Crediting:** Dividends will be compounded and credited monthly based on daily average balance.

**Dividend Period:** The dividend period is monthly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is January 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is January 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** There is no minimum balance required to open. A minimum average daily balance of \$500.00 is required to earn dividends in the Regular Checking Account.

**Maximum Balance to Earn Dividends:** A maximum amount of \$25,000 will be paid the stated dividend rate on this account.

**Transaction Limitations:** No transaction limitations apply to this account, unless otherwise stated in your account agreement or other agreement with the credit union.

#### **Non-Interest Checking Account**

**Dividend Information:** No dividends are paid on this account.

**Minimum Balance Requirements:** There is no minimum balance requirement on the Non-Interest Checking Account.

**Transaction Limitations:** No transaction limitations apply to this account.

#### **Money Market Checking Account**

**Compounding and Crediting:** Dividends will be compounded and credited monthly based on the average daily balance.

**Dividend Period:** The dividend period is monthly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is January 31. All other dividend periods follow the same pattern of dates. If an Account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** There is no minimum balance required to open. A minimum average daily balance of \$2,500 is required to earn dividends in the Money Market Checking. Subject to monthly service charge if minimum balance falls below \$2,500 for at least one day during the month. See current Service Charge Schedule for stated amount.

**Additional Rate Information:** The dividend rate and annual percentage yield may change at any time, as determined by the board of directors. This account is tiered which means it pays a dividend rate on the entire balance based on the average daily balance within the account as equated to the stated tiered rates disclosed.

**Transaction Limitations:** No transaction limitations apply to this account, unless otherwise stated in your account agreement or other agreement with the credit union.

**Classic Business Checking** (For former First Community FCU business checking accounts established prior to 11/1/2008)

**Compounding and Crediting:** Dividends will be compounded and credited monthly based on daily average balance.

**Dividend Period:** The dividend period is monthly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is January 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is January 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** A minimum average daily balance of \$500.00 is required to earn dividends in the Basic Business Checking Account.

**Maximum Balance Requirements:** A maximum amount of \$25,000 will earn the stated dividend rate on this account.

**Transaction Limitations:** No transaction limitations apply to this account.

#### **Non-Profit Business Checking Account**

**Dividend Information:** No dividends are paid on this account.

**Minimum Balance Requirements:** There is no minimum balance requirement on the Non-Profit Business Checking account.

**Transaction Limitations:** Three hundred (300) transactions are free each month. Transactions in excess of three hundred (300) per month may be subject to fees. Please refer to our current schedule of fees for details.

#### **Non-Interest Earning Business Checking Account**

**Dividend Information:** No dividends are paid on this account.

**Minimum Balance Requirements:** There is no minimum balance requirement on the Non-Interest Earning Business Checking account.

**Transaction Limitations:** One hundred (100) transactions are free each month. Transactions in excess of one hundred (100) per month may be subject to fees. Please refer to our current schedule of fees for details.

#### **Interest Earning Business Checking**

**Compounding and Crediting:** Dividends will be compounded and credited monthly based on daily average balance.

**Dividend Period:** The dividend period is monthly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is January 31. All other dividend periods follow the same pattern of dates. The dividend declaration date is the last day of the dividend period and for the example above is January 31. If an account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Opening Deposit and Balance Requirements:** A minimum deposit is required to open the Interest Earning Business Checking Account. A minimum daily balance may also be required to earn dividends in the Interest Earning Business Checking Account. Please refer to current Business Checking program information for dividend rates and corresponding balance levels.

**Transaction Limitations and Service Fees:** Two hundred (200) transactions are free each month. Transactions in excess of two hundred (200) per month may be subject to fees. This account may also be subject to a monthly maintenance fee. Please refer to our current schedule of fees for details.

**Business Money Market Savings** (with check writing ability for former E&A Credit Union Business Members – no longer to be available for new account opening following March 1, 2014)

**Compounding and Crediting:** Dividends will be compounded and credited monthly based on the average daily balance.

**Dividend Period:** The dividend period is monthly. For example, the beginning date of the first dividend period of the calendar year is January 1, and the ending date of such dividend period is January 31. All other dividend periods follow the same pattern of dates. If an Account is closed before dividends are credited, accrued dividends will not be paid.

**Minimum Balance Requirements:** There is no minimum balance required to open.

**Additional Rate Information:** The dividend rate and annual percentage yield may change at any time, as determined by the board of directors. This account is tiered which means it pays a dividend rate on the entire balance based on the average daily balance within the account as equated to the stated tiered rates disclosed.

**Transaction Limitations:** There are no limitations on the number of in person or ATM withdrawals however; preauthorized or automatic transfers including transfers to third parties or to another account by telephone or pursuant to a preauthorized agreement with the Credit Union are limited by regulation to six (6) per month. If you exceed the transfer limitations set forth above in any statement period, your account may be subject to closure by the Credit Union.

**Traditional & Roth IRA - Certificate Accounts  
(See your certificate for full disclosure)**

**Compounding and Crediting:** Dividends will be compounded and credited monthly.

**Dividend Period:** The dividend period is monthly.

**Minimum Balance Requirements:** The minimum balance to open a Traditional and Roth IRA certificate is \$500.00. You must maintain a minimum daily balance of \$500.00 to earn dividends.

**Accrual of Dividends on Non Cash Items:** Dividends will begin to accrue no later than the Business Day Credit Union receives credit for the deposit of noncash items (for example, checks) to the account.

**Transaction Limitations:** After the account is opened, you may not make additions into the account until the maturity date stated on the account. You may make withdrawals of principal from your account before maturity only if we agree at the time you request the withdrawal. Principal withdrawal before maturity is included in the amount subject to early withdrawal penalty. You can only withdraw dividends before maturity if you make arrangements with us for periodic payments of dividends in lieu of crediting.

**Maturity:** Your Certificate of Deposit account will mature within the term set forth on your Certificate of Deposit Receipt or Renewal Notice.

**Early Withdrawal Penalties:** We may impose a penalty if you withdraw any funds prior to the maturity date. See your certificate for full disclosure specific to your term. See your plan disclosure if this account is part of an IRA or other tax qualified plan.

**Renewal Period:** You may prevent renewal if we receive written notice from you before maturity of your intention not to renew. If you do not notify us, the renewal term will be the same as the original term, beginning on the maturity date. The Dividend Rate will be adjusted to the current rate as set forth on the current Deposit Rate Sheet.

**Goal Setter Certificate (Youth) – No longer available as of March 1, 2014 (upon maturity, will be rolled into an EZ Saver CD of equal or most closely available lesser term option).** Available to members age thirteen (13) to seventeen (17) as part of the Youth Savings Account program.

**Compounding and Crediting:** Dividends will be compounded and paid annually and upon maturity.

**Dividend Period:** The dividend period is annually.

**Term of Deposit:** Maximum term is set equal to the remaining number of years from date of account opening to that of account holder's eighteenth birthday.

**Minimum and Maximum Balance Requirement:** The minimum balance of \$5.00 is required to earn stated dividend rate.

The maximum balance limitation to this account is \$5,000.00 to earn stated dividend rate.

**Funds Disbursement:** Funds will be transferred into Share Savings Account on the first business day following date of maturity.

**Transaction Limitations:** Additional deposits of minimum \$5.00 after date of account opening, up to a maximum amount in account of \$5,000.00 are allowed throughout term of account. Any withdrawals of funds from the Goal Setter Certificate prior to the end of the term will close the account, and may be subject to early withdrawal penalties stated below.

**Early Withdrawal Penalties:** Your account will mature after the applicable term as set forth on your Goal Setter Certificate. We may impose a penalty if you withdraw any funds in your Goal Setter Certificate prior to the maturity date – see certificate for penalty based on your established term.

**Renewal Notification:** The certificate will not renew upon maturity.

**Certificates – Non IRA (applicable to both Personal and Business Accounts – see your certificate for full disclosure)**

**Compounding and Crediting:** Dividends will be compounded and credited monthly. Alternatively, you may choose to have dividends paid to you or to other accounts rather than credited to this account.

**Dividend Period:** The dividend period is monthly.

**Minimum Balance Requirements:** The minimum daily balance of \$500.00 is required to earn dividends.

**Transaction Limitations:** Additional deposits to a Certificate prior to the maturity are not allowed.

**Early Withdrawal Penalties:** We may impose a penalty if you withdraw any funds prior to the term maturity date. See your certificate for full disclosure specific to your term.

**Renewal Period:** You may prevent renewal if we receive written notice from you before maturity of your intention not to renew. If you do not notify us, the renewal term will be the same as the original term, beginning on the maturity date. The Dividend Rate will be adjusted to the current rate as set forth on the current Deposit Rate Sheet.

**EZ Saver Certificate (see certificate for full disclosure)**

**Compounding and Crediting of Interest:** Interest will be compounded and paid monthly.

**Term of Deposit:** Set terms available of six (6) months, twelve (12) months and twenty-four (24) months.

**Minimum Balance Requirement:** The minimum balance of \$50.00 is required to open and earn stated interest rate.

**Transaction Limitations:** Additional deposits are allowed during term of EZ Saver CD.

**Early Withdrawal Penalties:** Your account will mature after the applicable term as set forth on your EZ Saver Certificate. We may impose a penalty if you withdraw any funds in your Certificate prior to the maturity date (see certificate for disclosure of penalty based on term).

**Renewal Period:** You may prevent renewal if we receive written notice from you before maturity of your intention not to renew. If you do not notify us, the renewal term will be the same as the original term, beginning on the maturity date. The Dividend Rate will be adjusted to the current rate as set forth on the current Deposit Rate Sheet.

**Flex Certificate of Deposit** (no longer available following March 1, 2014 - upon maturity will renew into traditional Certificate of Deposit). For terms and conditions of Flex Certificate of Deposit, see certificate issued.

**Bonus Bills Savings Account Rules and Regulations – Prize Winning Disclosure**

1. **How to Enter: Automatic Entries:** An eligible member of Advia Credit Union automatically receives raffle entries based on the following:
  - **Monthly Prize Drawing:** One (1) entry monthly for every \$25 net increase in the monthly balance for the member in a Qualifying Bonus Bills Savings account at month's end, with a maximum of twenty (20) entries per month per member.
  - **Grand Prize Drawing:** One (1) entry monthly for every \$25 net increase in the monthly balance for the member in a Qualifying Bonus Bills Savings account at each month's end, with a maximum of twenty (20) entries per month per member. Participating members are limited to a total of 240 entries during the Raffle period for the Grand Prize Drawing.

Automatic entries will be recorded by Advia Credit Union once the balance is calculated at month's end, and year's end processing. Qualifying deposits/balances must be received and posted by Advia Credit Union by midnight Eastern Time on the day of each month-end and the December 31<sup>st</sup> processing date. Automatic entries are only eligible to win during the drawing period covered.

## **2. Qualifying Bonus Bills Savings Accounts:**

Advia Credit Union will establish a Qualifying Bonus Bills Savings Account. Rates and other terms and conditions of a Qualifying Bonus Bills Savings Account may vary (see Youth Savings Account disclosure). A participating member is limited to one (1) Qualifying Bonus Bills Savings account at Advia Credit Union. Participating members may deposit unlimited funds in a Qualifying Bonus Bills Savings, with an unlimited number of deposits, provided that prize entries and eligibility are limited as set forth in these rules.

## **3. Prize Eligibility:**

Corporations, limited liability companies, partnerships, associations, sole proprietorships, business and labor organizations, other public or private entities, and employees of Advia Credit Union are not eligible to receive monthly or grand prizes. All participants must be a member, with a traditional savings account in good standing with Advia Credit Union. To win a prize in a drawing, a participant's Qualifying Bonus Bills Savings account must be open and active at the time of the drawing. A participating member is limited to winning one Monthly prize per month. If the Qualifying Bonus Bills Savings account is owned by more than one member, only the primary member is entitled to win a monthly prize. Before receiving any prize, a participant must confirm eligibility by verifying identity, age and residency. If a member with a Qualifying Bonus Bills Savings is ineligible for the Raffle, such member will continue to be the account holder but deposits to the account will not constitute Raffle entries. There will be no repeat winners in the same year.

## **4. Prizes:**

- **Monthly Prizes:** All monthly prizes are a \$50.00 value and will be presented to the winner. Winner must come into Advia Credit Union to collect the monthly prize. Prizes will be deposited in the member's Qualifying Bonus Bills Savings account. As more specifically provided below, Advia Credit union will award one (1) prize each month to a winning member. Drawings for Monthly Prizes will be conducted within fourteen (14) days of the conclusion of the previous month, for which valid entries will be determined. Winners will be notified via telephone, email, or standard USPS mail. Prizes are non-transferrable.
- **Grand Prize:** One Grand Prize Drawing will be held on or before February 1<sup>st</sup> of every year. One Grand Prize winner will be selected from among all participants in the Raffle to win a prize that is worth \$600 or less. Accordingly, there will only one Grand Prize winner. The winner will be notified via telephone, email, or standard USPS mail. The Grand Prize is non-transferrable.

## **5. Odds:**

Actual odds of winning are based upon the number of eligible entries received. Each eligible entry shall have a chance of winning Monthly prizes that is equal to that of other entries within Advia Credit Union. Each eligible entry shall have a chance of winning the Grand Prize that is equal to that of all other entries in the Raffle. There will be no repeat winners in the same year, but entries will still count towards the Grand Prize.

## **6. Decisions:**

By entering into the Raffle, entrants agree to abide by and be bound by these Official Rules, and to accept the decision of Advia Credit Union as final. Entrants also agree to hold Advia Credit Union and each third party contributing funds and/or services to the Raffle (collectively and hereinafter referred to as the "Parties"), and each of their officers, directors, employees, members, and representatives, and agents are not responsible for any negligence, claims, liability, injury, property loss, or other damages of entrants and/or winners arising from, or in connection with, acceptance of prizes awarded or participating in this Raffle. Advia Credit Union reserves the right to disqualify entrants who fail to follow these Official Rules or who make any misrepresentation relative to the Raffle and prize redemption.

## **7. Publicity:**

Each winner agrees to permit the Parties to use his/her name and likeness in promotional and other materials, without additional compensation or permission, except where prohibited by law.

## **8. Compliance with Law:**

All issues and questions concerning the construction, validity interpretation, and enforceability to these Official Rules, or the rights and obligations of entrants and the parties in connection with the Raffle, shall be governed by, and construed in accordance with, the substantive laws of the State of Michigan, without regard to its choice of law provisions. This raffle is void where and to the extent prohibited by law.

## **9. Taxes:**

Winner is solely responsible for all applicable federal, state and local taxes and any expenses associated with the prize, unless otherwise indicated.

## **10. Miscellaneous:**

Advia Credit Union will not substitute prizes of equivalent value. Advia Credit Union has the right to amend the rules or discontinue the Raffle at any time. Advia Credit Union has no responsibility to notify participants of any aspect related to the conduct of the Raffle. Written copies of these rules are available during normal business hours at any Advia Credit Union location and online at [adviacu.org](http://adviacu.org). In the event of any conflict between the rules posted on our website and any other version of the rules, the version posted on the website will be considered the definitive and controlling version.

## **11. Sponsor:** Advia Credit Union

## **AGREEMENT MODIFICATION**

We may change any of the terms of this Agreement at any time without prior notice to you if the change is favorable to you. We may make changes that are adverse to you only if we provide you with any notice required by law or required in this Agreement. You may close the account if you do not agree to the changes; if you continue to use the account or keep the account open after the effective date of such change, you will be deemed to have agreed to the changes.

## **WIRE TRANSFER AGREEMENT**

The following rules shall apply to all funds transfer orders (ACH, Wire Transfers, or other electronic services) processed by Advia Credit Union. We may accept on your behalf, payments to your account or transfers from your account, which will be or have been transmitted by Fedwire, ACH, or through a similar wire transfer system, such as the NYCE "A2A" Money Transfer System, that is used primarily for transfers between financial institutions or between businesses. Your rights and obligations with respect to such transfers shall be construed in accordance with and governed by Regulation J, Subpart B – Funds Transfers Through Fedwire, and the applicable Federal Reserve Bank Operating Circular. Whenever an ACH is used as part of a transaction that does not involve Fedwire, the rules of that ACH will govern that part of the transaction. Where none of the above stated rules apply, the transactions contemplated by this Agreement shall be governed by the laws of the State of Michigan, including Article 4A of the Michigan Uniform Commercial Code.

In general, we will accept fund transfer orders only if you agree to the terms of this Wire Transfer Agreement, and for wire transfers, have signed an Authorization for Transfer form, have sufficient funds available in the appropriate account to execute the funds transfer order plus the appropriate fee (Refer to our Fee Schedule), and produce acceptable identification. Once you have signed a Recurring Wire Transfer Authorization, we will accept telephonic funds transfer orders from you, provided our security procedures are followed.

Once you have agreed to the terms and conditions of this Wire Transfer Agreement, signed a Recurring Wire Transfer Authorization, and provided us with a secret password, created by you, we will accept wire transfer orders from you via telephone, provided you have sufficient funds available in the appropriate account to execute the wire transfer, and you provide the secret password when you call to make your wire transfer. You hereby acknowledge that the security procedures described are commercially reasonable and that you have agreed to the security procedure offered by the Credit Union

and agree to follow the security procedure when making a funds transfer order via telephone. You hereby acknowledge that you will be liable for any wire transfer, whether or not authorized, that is issued in your name and accepted by the Credit Union in compliance with the agreed upon security procedure. We will charge you a fee for each wire transfer request that we process. Refer to the Wire Transfer Fee in our current Fee Schedule.

The Credit Union makes no warranties with respect to fees charged by other financial institutions with respect to your funds transfer orders. We will not be liable for failure to comply with the terms of any funds transfer order (ACH, wire transfer, or other electronic service) when such failure is caused by legal constraint, interruption or failure of transmission and/or communications facilities, war emergency, labor dispute, act of nature, or other circumstances beyond the control of the Credit Union.

You hereby indemnify the Credit Union, its agents, and employees against any loss, liability or expenses (including attorney's fees) resulting from or arising out of any claim of any person in connection with any matters subject to this Agreement, except where applicable law precludes your indemnification.

It is the policy of Advia Credit Union to accept funds transfer orders into and out of your savings and/or checking account. Funds transfer orders from your account(s), other than your checking account, will be limited to a total six (6) withdrawals or transfers to third parties, by means of a preauthorized or automatic transfer or telephonic order or instruction or similar order, per month. Your account(s) may be subject to closure if these limits are exceeded.

If you give us a funds transfer order, which identifies a beneficiary's financial institution, an intermediary financial institution, or a beneficiary (the person to whom you are wiring the funds), by name and number, we and every receiving or beneficiary financial institution, may rely on the identifying number to make payment. This will be true even if the number you provided to us identifies a different financial institution, person, or account other than the one named.

We will provide you with notification of an incoming funds transfer order as part of your periodic statement. Therefore, we will not provide a special notice every time we receive a funds transfer order into your account.

Information is available regarding incoming funds transfer orders can be obtained by calling us at 844-238-4228. Wire transfer requests must be given to us in compliance with our cut-off hours as established from time to time by us. If we are obligated to pay interest to you on the amount of a funds transfer order, you shall be paid interest on a daily basis equal to the dividend rate otherwise applicable to the account from which the funds transfer should have occurred. In the event we are ever liable to you for damages due to a funds transfer order, your damages will be limited to actual damages only.

We will not be responsible for incidental or consequential damages, court costs or attorney's fees, unless otherwise required by law or regulation. If you make a funds transfer order which instructs us to wire funds to foreign countries, we assume no liability as to the length of time necessary to complete such a transfer, provided we have acted in good faith, with ordinary care, and in compliance with applicable law.

You hereby agree to notify us in writing of any unauthorized or erroneous funds transfer order within thirty (30) days from the date you first received notification from us either that the funds transfer order was accepted or your account was debited with respect to the funds transfer order. Should you fail to so notify us of any unauthorized or erroneous funds transfer order, we will not be liable to you for any subsequent similar occurrences that we could have prevented had we received such notice.

Credit given by us to you with respect to a funds transfer order is provisional until we receive final settlement for such entry through a Federal Reserve Bank, or other intermediary bank. If we do not receive such final settlement, you are hereby notified and agree that we are entitled to a refund of the amount credited to you in connection with such an entry, and the party making payment to you via such entry (i.e., the originator of the entry) shall not be deemed to have paid you in the amount of such entry.

## ADVIA CREDIT UNION MEMBER PRIVACY NOTICE

FACTS	WHAT DOES ADVIA CREDIT UNION DO WITH YOUR PERSONAL INFORMATION?	
<b>Why?</b>	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.	
<b>What?</b>	The types of personal information we collect and share depend on the product or service you have with us. This information can include: <ul style="list-style-type: none"> <li>• Social Security Number</li> <li>• Transaction history, account balances and payment history</li> <li>• Credit history and credit scores</li> </ul> When you are no longer our member, we continue to share your information as described in this notice.	
<b>How?</b>	All financial companies need to share member/customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons the credit union chooses to share; and whether you can limit this sharing.	
Reasons we can share your personal information	Does the credit union share?	Can you limit this sharing?
For our everyday business purposes – such as to process your transactions, maintain your accounts, respond to court orders and legal investigations, or report to credit bureaus	YES	NO
For our marketing purposes – to offer our products and services to you	YES	YES
For joint marketing with other financial companies	YES	YES
For our affiliates' everyday business purposes – information about your transactions and experiences	YES	YES
For our affiliates' every day business purposes – information about your credit worthiness	NO	N/A
For our affiliates to market to you	YES	YES
For Non Affiliates to market to you	YES	YES
<b>Questions?</b>	Call 844-238-4228 or go to <a href="http://www.adviacu.org">www.adviacu.org</a>	
<b>Who are we</b>		
Who is providing this notice?	Advia Credit Union	
<b>What we do</b>		
How does the credit union protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.	
How does the credit union collect my personal information?	We collect your personal information, for example, when you <ul style="list-style-type: none"> <li>• Open and account or deposit money</li> <li>• Pay your bills or apply for a loan</li> <li>• Use your credit or debit card</li> </ul>	
Why can't I limit all sharing?	Federal law gives you the right to limit only <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes – information about your creditworthiness</li> <li>• Affiliates from using your information to market to you</li> <li>• Sharing for non-affiliates to market to you</li> </ul>	

	State laws and individual companies may give you additional rights to limit sharing		
<b>Definitions</b>			
Affiliates	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• Avidia Financial Advisors</li> <li>• Mortgage Center</li> </ul>		
Non-affiliates	<p>Companies not already related by common ownership or control. They can be financial and nonfinancial companies (may vary regionally)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> <ul style="list-style-type: none"> <li>• Satmetrix</li> <li>• Credit Union National Association</li> <li>• Michigan Credit Union League</li> <li>• Wisconsin Credit Union League</li> </ul> </td> <td style="width: 50%;"> Institutions Solutions, Inc. <ul style="list-style-type: none"> <li>• CUNA Mutual Insurance</li> <li>• Allied Solutions</li> <li>• LSI, Incorporated</li> </ul> </td> </tr> </table>	<ul style="list-style-type: none"> <li>• Satmetrix</li> <li>• Credit Union National Association</li> <li>• Michigan Credit Union League</li> <li>• Wisconsin Credit Union League</li> </ul>	Institutions Solutions, Inc. <ul style="list-style-type: none"> <li>• CUNA Mutual Insurance</li> <li>• Allied Solutions</li> <li>• LSI, Incorporated</li> </ul>
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Joint marketing	A formal agreement between nonaffiliated financial companies that together market financial products or services to you		

## Other important information

Please contact us with questions or concerns at our Main Office Location: 550 South Riverview; Parchment, MI 49004. Phone 844-238-4228.

# EXHIBIT 2

## **WHAT YOU NEED TO KNOW ABOUT OVERDRAFTS AND OVERDRAFT FEES**

An overdraft occurs when you do not have enough money in your account to cover a transaction, but we have the option to pay it anyway. We can cover your overdrafts in two different ways:

1. Use the standard overdraft practices that come with your account; or
2. Offer overdraft protection plans, such as a link to a savings account, which may be less expensive than our standard overdraft practices. To learn more, ask us about these plans.

This notice explains our standard overdraft practices.

➤ **What are the standard overdraft practices that come with my account?**

We do authorize and pay overdrafts for the following types of transactions:

- Checks and other transactions made using your checking account number
- Automatic bill payments

After August 15, 2010 we will not authorize and pay overdrafts for the following types of transactions unless you ask us to (see below):

- ATM transactions
- Everyday debit card transactions

We pay overdrafts at our discretion, which means we do not guarantee that we will always authorize and pay any type of transaction.

If we do not authorize and pay an overdraft, your transaction will be declined.

➤ **What fees will I be charged if Advia Credit Union pays my overdraft?**

Under our standard overdraft practices:

- We will charge you a fee of up to \$32 each time we pay an overdraft.
- There is no limit on the total fees we can charge you for overrawing your account

➤ **What if I want Advia Credit Union to authorize and pay overdrafts on my ATM and everyday debit card transactions?**

If you want us to authorize and pay overdrafts on ATM and everyday debit card transactions after August 15, 2010, please fill out below.

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I want Advia Credit Union to authorize and pay overdrafts on my ATM and everyday debit card transactions.

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Account Number(s): \_\_\_\_\_